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GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B482 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			EXAMINER RINES, ROBERT D	
			ART UNIT 3623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/089,761	<b>Applicant(s)</b> ANDERSON ET AL.	
	<b>Examiner</b> R. David Rines	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 12, 13, 15-20, 24, 26-32, 36-44, 47, 53, 67 and 73-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 13, 15-20, 24, 26-32, 36-44, 47, 53, 67 and 73-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

*Notice to Applicant*

[1] This communication is in response to the amendment filed 7 May 2009. Claims 2-11, 14, 21-23, 25, 33, 35, 45-46, 48-52, 54-66, and 68-72 have been cancelled. Claims 1, 31, 47, 67, and 77 have been amended. Claims 1, 12-13, 15-20, 24, 26-32, 36-44, 47, 53, 67, 73-80 are pending.

NOTE: In the amendment filed 7 May 2009, Applicant appears to have amended claim 67 without properly identifying the amended/newly added language. While this is technically a non-compliant response, Examiner assumes a typographical error or oversight on the part of Applicant and has addressed the claim below.

***Claim Rejections - 35 USC § 112***

[3] Previous rejection of claims 1-4, 6-24, and 26-56 rejected under 35 U.S.C. 112, second paragraph, set forth in the Office Action mailed 20 May 2008 have been withdrawn.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[4] Claims 1, 12-13, 15, 17-18, 20, 24, 26-32, 34, 47, 53, 67, and 73-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLaHueraga (United States Patent #6,408,330) in view of McKinnon et al. (United States Patent #6,190,326) and further in view of Mishelovich et al. (United States Patent #5,363,842).

As per (currently amended) claim 1, DeLaHueraga discloses a system for the delivery of a medicament and the remote assessment of a patient's medical condition: a network computer system having specifiable network addresses (DeLaHueraga; col. 10, lines 6-35 and col. 17, lines 38-55); remote from said network computer system, a patient electronic data collection system for locally collecting data relevant to the patient's medical condition (DeLaHueraga; col. 9, lines 5-24 and col. 19, lines 14-55 \*see "ICD"); a communicator for wirelessly communicating with an entry point to said network computer system to enable transfer of said data to the network computer system, wherein the data includes a patient identifier (De La Hueraga; col. 18, lines 45-59 and col. 34, lines 53-67 \*see "patient identification number"); and a secure access gateway

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permitting access to the data on the network computer system in response to a user authorization command (DeLaHuerga; col. 19, lines 44-56, col. 23, lines 59-67, and col. 24, lines 1-37 \*entry of a "password" is considered to be a form of "a user authorization command"); wherein said patient data collection system forms a part of a medicament delivery system that is arranged to collect data when the patient uses the medicament delivery system (DeLaHuerga; col. 9, lines 15-40 \*see "IV pump" and "medical container").

While DeLaHuerga discloses multiple "smart devices" and sensors for monitoring patient respiratory function and the administering medication to a patient including automated reporting of drug administering information to the "information collection device" (DeLaHuerga; col. 9, lines 14-40), DeLaHuerga fails to expressly disclose a respiratory device/inhaler and the associated delivery of a respirable medicament.

However, as evidenced by McKinnon et al., "smart inhalers" that sense a patient's breath, test respiratory functions, and deliver respirable medication, are well known in the remote patient monitoring and treatment art (McKinnon et al.; col. 3, lines 10-21 and lines 45-54).

Claim 1 has been amended to further specify that the "communicator" is configured "...to enable two-way transfer of data between the network computer system and the patient electronic data collection system including transfer of said data relevant to the patient's respiratory condition with a patient identifier to the network computer system;..."

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Claim 1 has been additionally amended to specify that the "secure access gateway" permits access to data "...relevant to the patient's respiratory condition...".

Claim 1 has been further amended to specify that the "medicament delivery system" is arranged "...to provide respirable delivery of a dose of medicament to the patient, that is arranged to vary the dose of the medicament deliverable to the patient in response to data received from the network computer system, that is under the control of the patient..."

As per these elements, McKinnon et al. disclose a "communicator" configured "...to enable two-way transfer of data between the network computer system and the patient electronic data collection system including transfer of said data relevant to the patient's respiratory condition with a patient identifier to the network computer system;..." (McKinnon et al.; col. 4, lines 6-52

\*see base station communicates data to physician data collection station and physician station communicates modified treatment regimen to based station/docking station). McKinnon et al further disclose that the transmitted data is relevant to the patient's respiratory condition (McKinnon et al.; col. 3, 24-44).

McKinnon et al. further disclose that the delivery system is arranged to provide respirable delivery of a dose of medicament to the patient and McKinnon et al. further discloses that the arrangement allows for the modification of the treatment regimen and the monitoring of timing and dosage levels of medication administered to the patient (McKinnon et al; col. 3, lines 45-67).

While the above noted teachings of McKinnon et al. would serve to vary the cumulative dosages to a patient, McKinnon et al. fails to disclose modification of the dose administered by the inhaler, i.e., a single dose.

However, as evidenced by Mishelovich et al., smart inhalers that are programmable by a remote workstation to alter the administered dosage are well known in the art (Mishelovich et al.; col. 6, lines 40-45).

It would have been obvious to one of ordinary skill in the art to have modified DeLaHuerga to incorporate a “smart” inhaler into system designed to accommodate such devices with the motivation of employing a well known apparatus for accurately collecting information about a patient's respiratory condition from the patient (McKinnon et al.; col. 1, lines 41-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the smart device/inhaler features of DeLaJuerga et al. and McKinnon et al. to in known inhaler features such are programming to modify dose (Mishelovich et al.; col. 6, lines 40-45) with the reasonable expectation of delivering a consistent dosage of medication to the patient. The motivation to make the medication would have been so that the physician can evaluate any changes to the patient's condition with reasonable assurance that the difference is not simply due to a variation in medication dosage (Mishelovich; et al.; col. 2, lines 60-65).

Claims 2-11 are cancelled.

As per claim 12, DeLaHuerge discloses a system wherein the secure access gateway is password protected (DeLaHuerge; col. 19, lines 44-56, col. 23, lines 59-67, and col. 24, lines 1-37).

As per claim 13, DeLaHuerge discloses a system wherein the secure access gateway enables different levels of access authorization to the data to be assigned to different authorized users (DeLaHuerge, col. 32, lines 59-66).

Claim 14 is cancelled.

As per claim 15, DeLaHuerge discloses a system wherein information from a patient-remote datasource is made available to the network computer system (DeLaHuerge, col. 33, lines 1-5).



As per claim 17, DeLaHeurga discloses a system wherein the patient-remote datasource comprises a database of prescribable medicaments (DeLaHeurga, col. 46, line 65-col. 47, line 25).

As per claim 18, DeLaHeurga discloses a system wherein the patient electronic data collection system further comprises a patient electronic data management system comprising a memory for storage of data, (DeLaHeurga, col. 17, line 66-col. 18, line 1); a microprocessor for performing operations on said data, (DeLaHeurga, col. 18, lines 10-20); and a transmitter for transmitting a signal relating to the data or the Outcome of an operation on the data, (DeLaHeurgal col. 2, lines 48-55).

As per claim 20, DeLaHeurga discloses a system wherein the communicator enables two-way transfer of data between the network computer system and the patient electronic data management system, (DeLaHeurga, col. 18, lines 15,16).

Claims 21-23 are cancelled.

As per claim 24, DeLaHuerga discloses a system wherein any communicator communicates directly with the network computer system (DeLaHuerga; col. 17, lines 38-67 and col. 18, lines 1-20).

Claim 25 is cancelled.

As per claim 26, DeLaHueraga discloses a system wherein the communicator communicates with the network computer system via a second communications device having telecommunications capability (DeLaHueraga; col. 17, lines 38-67 and col. 18, lines 1-20).

As per claim 27, DeLaHeurga discloses a system wherein the telecommunications device comprises a cellular phone or pager (DeLaHeurga, col. 54, lines 39-41).

As per claim 28, DeLaHeurga discloses a system wherein the communicator communicates with the second communications device using spread spectrum radiofrequency signals (DeLaHeurga, col. 18, lines 45-59).

As per claim 29, DeLaHeurga discloses a system wherein the network computer system comprises a public access network computer system (DeLaHeurga, col. 17, lines 55-65).

As per claim 30, DeLaHeurga discloses a system wherein the network computer system comprises a private access network computer system (DeLaHeurga, col. 17, lines 55-65).

As per (currently amended) claim 31, DeLaHeurga discloses a system wherein the network computer system has a patient-specific network address which is selected from the group consisting of a web-site address, an e-mail address and a file transfer protocol address (DeLaHeurga, col. 18, lines 37-44).

As per claim 32, DeLaHuerga discloses a system wherein the patient electronic data management system additionally comprises a data input system for patient input of data to the electronic data management system (DeLaHuerga; col. 20, lines 47-63 \*see patient “bracelet”).

Claim 33 is cancelled.

As per claim 34, DeLaHeurga discloses a system additionally comprising a display for display of data from the patient electronic data management system to the patient, (DeLaHeurga, col. 17, lines 36-54).

Regarding claims 12-13, 15, 17-18, 20, 24, 26-32, and 34, the statement of obviousness and motivation to combine discussed with regard to claim 1 above are applicable to claims 12-13, 15, 17-18, 20, 24, 26-32, and 34 and are herein incorporated by reference.

As per (currently amended) claim 47, DeLaHuega discloses a method for delivery of a medicament and remotely assessing a patient's respiratory condition comprising (DeLaHuega; col. 9, lines 5-24 and col. 19, lines 14-55 \*see "ICD"); wirelessly communicating with an endpoint to a remote network computer system to enable transfer of said data to said remote network computer system (DeLaHuega, col. 7, lines 55-60); and permitting authorized user access to the data on the remote network computer system via a secure access gateway (DeLaHuega, col. 14, lines 15-27).

With respect to the step of providing a patient with a medicament delivery system that provides respirable delivery of medicament to the patient, that is under the control of the patient, and that comprises (i) a sensor to sense the breath of a patient when the patient uses the medicament delivery system, and (ii) a patient electronic data collection system for locally collecting data relevant to the patient's respiratory condition when the patient uses the medicament delivery system in response to the sensor communicating breath data thereto; the patient using the medicament delivery system so that (i) the patient receives the medicament, and (ii) the patient electronic data collection system locally collects data relevant to the patient's medical condition in electronic form in response to the sensor communicating breath data thereto;"

While DeLaHuega discloses multiple "smart devices" for the administering medication to a patient and further DeLaHuega discloses automated reporting of drug administering information to the "information collection device" (DeLaHuega; col. 9, lines 14-40), DeLaHuega appears to

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be focused on physician directed drug administration and thus fails to specifically indicate that the drug delivery device is “under the control” of the patient.

However, as evidenced by McKinnon et al., “smart inhalers” that sense a patient breath, test respiratory functions, and deliver medication, and communicate data are well known in the remote patient monitoring and treatment art (McKinnon et al.; col. 3, lines 10-21 and lines 45-67 and col. 4, lines 1-35).

It would have been obvious to one of ordinary skill in the art to have modified DeLaHuerger to incorporate a “smart” inhaler into system designed to accommodate such devices with the motivation of employing a well known apparatus for accurately collecting information about a patient's respiratory condition from the patient (McKinnon et al.; col. 1, lines 41-45).

Method claim 47 has been amended to include the subject matter presented by amendment to system claim 1. Accordingly, claim 47 as presently amended is rejected as unpatentable in consideration of DeLaHuerger in view of McKinnon et al. and further in view of Mishelovich et al. for the reasons, conclusion(s) of obviousness, and statement(s) of motivation as discussed above with respect to claim 1.

Claims 48-52 have been cancelled.

As per claim 53, DeLaHeurga discloses a method comprising permitting different levels of access to the data to different authorized users (DeLaHeurga, col. 32, lines 59-66).

Claims 54-56 have been cancelled.

Regarding claim 53, the statements of obviousness and motivation to combine as discussed with regard to claim 47 above are applicable to claims 53 and are herein incorporated by reference.

Claims 57-61 have been cancelled.

Claims 62-66 have been withdrawn from consideration.

As per (currently amended) claim 67, a system for the remote assessment of a patient's medical condition comprising a network computer system having specifiable network addresses (DeLaHuerga; col. 10, lines 6-35 and col. 17, lines 38-55); remote from said network computer system, a patient electronic data collection system for locally collecting data relevant to the patient's medical condition (DeLaHuerga; col. 9, lines 5-24 and col. 19, lines 14-55 \*see "ICD"); a communicator for wirelessly communicating with an entry point to said network computer system to enable transfer of said data to the network computer system, wherein the data includes a patient identifier(DeLaHuerga; col. 18, lines 45-59 and col. 34, lines 53-67 \*see "patient identification number"); and a secure access gateway permitting access to the data on the

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network computer system in response to a user authorization command (DeLaHuerga; col. 19, lines 44-56, col. 23, lines 59-67, and col. 24, lines 1-37 \*entry of a "password" is considered to be a form of "a user authorization command"); wherein the patient electronic data collection system forms part of a medicament delivery system and is arranged to collect data when the patient uses the medicament delivery system (DeLaHuerga; col. 9, lines 14-40).

Claim 67 has been amended to include the subject matter presented by amendment to claim 1. Accordingly, claim 67 as presently amended is rejected as obvious in consideration of DeLaHuerga in view of McKinnon et al. and further in view of Mishelovich et al. for the reasons, conclusion(s) of obviousness, and statement(s) of motivation as discussed above with respect to claim 1.

Claims 68-72 have been withdrawn from consideration.

Regarding newly added claims 73-80, DeLaHuerga fails to disclose the recited elements when the system is configured with an inhaler device.

However, regarding claim 73, McKinnon et al. disclose a system wherein the communicator is in the medicament delivery device. (McKinnon et al.; Fig.1 item 26- data device on inhaler is considered to be a part of the communicator).

Regarding (currently amended) claim 77, McKinnon et al. disclose a method wherein said wireless communication is carried out with a communicator which is comprised in the

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medicament delivery system (McKinnon et al.; Fig.1 item 26 and col. 3, lines 45-67, col. 4, lines 1-34).

Regarding claims 74 and 78, McKinnon et al. disclose a system wherein the communicator is integral with the patient electronic data collection system (McKinnon et al.; Fig.1 item 16/22 – docking station).

Regarding claims 75 and 79, McKinnon et al. disclose a system wherein the medicament delivery system is a hand-held inhaler device (McKinnon et al.; Fig. 1-inhaler).

Regarding claims 76 and 80, McKinnon et al. disclose a method wherein the device is a metered dose inhaler comprising an aerosol container in which medicament is contained (McKinnon et al.; col. 7, lines 35-55 \*see dose properly administered).

Regarding claims 73-80, the obviousness and motivation to combine as discussed with regard to claim 1 above are applicable to claims 73-80 and are herein incorporated by reference.

**[5] Claims 35-46 are rejected under 35 U.S.C. 103(a) as being unpatentable in consideration of DeLaHuerga in view of McKinnon et al. and further in view of Mishelovich et al. as applied to claim 1 above and further in view of Admitted Prior Art.**



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As per claims 36-46, as noted in the previous Office Action, Applicant has failed to seasonably travers Examiner's Official Notice taken in the Office Action mailed 7 March 2007. Accordingly, the below noted limitations are hereinafter considered Admitted Prior Art.

Claim 35 is cancelled.

As per claim 36, DeLaHeurga fails to disclose a system wherein said sensor comprises a breath-movable element which is movable in response to the breath of a patient. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 37, DeLaHeurga fails to disclose a system wherein said breath- movable element is selected from the group consisting of a vane, a sail, a piston and an impeller. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54)..

As per claim 38, DeLaHeurga fails to disclose a system wherein the sensor comprises a pressure sensor for sensing the pressure profile associated with the breath of a user. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring

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and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 39, DeLaHeurga fails to disclose a system wherein the sensor comprises an airflow sensor for sensing the airflow profile associated with the breath of a user. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 40, DeLaHeurga fails to disclose a system wherein the sensor comprises a temperature sensor for sensing the temperature profile associated with the breath of a user. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 41, DeLaHeurga fails to disclose a system wherein the sensor comprises a moisture sensor for sensing the moisture profile associated with the breath of a user. However, such a feature is well-known in the art of ventilators, IV pumps and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga, (DeLaHeurga, col. 17, lines 36-54).

As per claim 42, DeLaHeurga fails to disclose a system wherein the sensor comprises a gas

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sensor for sensing the oxygen or carbon dioxide profile associated with the breath of a user.

However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 43, DeLaHeurga fails to disclose a system wherein said breath data includes breath cycle data. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 44, DeLaHeurga fails to disclose a system wherein said breath data includes peak flow data. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 45, DeLaHeurga fails to disclose a system for the remote assessment of a patient's cardiovascular condition additionally comprising a sensor which senses the cardiovascular activity of a patient, wherein the sensor communicates cardiovascular data to the electronic data collection system. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

As per claim 46, DeLaHeurga fails to disclose a system wherein said sensor measures the blood pressure of the patient. However, such a feature is well-known in the art of ventilators, IV pumps, and other remote patient monitoring and treatment devices and therefore would have been obvious to incorporate into DeLaHeurga (DeLaHeurga, col. 17, lines 36-54).

**[7] Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLaHeurga,, in view of McKinnon et al. in view of Mishelvich et al. as applied to claim 1 above, and further in view of Thompson, (U.S. 6,083,248).**

As per claim 16, DeLaHeurga and McKinnon et al. fail to disclose a system wherein the patient-remote datasource comprises data relating to ambient environmental conditions.

However, such a feature is well-known in the art as evidenced by Thompson, (Thompson, Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Thompson into the combination that includes DeLaHuerga and McKinnon et al. with the motivation of enhancing the ability of the medical system to find patients and get reports on patient and medical device status, and update medical device programming, (Thompson, Abstract).

As per claim 19, DeLaHeurga and McKinnon et al fail to disclose a system wherein said patient electronic data management system additionally comprises a geographic positioning system.

However, such a feature is well-known in the art as evidenced by Thompson, (Thompson, Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Thompson into the combination that includes DeLaHuerger and McKinnon et al. with the motivation of enhancing the ability of the medical system to find patients and get reports on patient and medical device status, and update medical device programming, (Thompson, Abstract).

***Response to Remarks/Amendment***

[8] Applicant's remarks filed 7 May 2009 are moot in view of newly added reference Mishelovich et al.

Examiner maintains that the features of claim 36-46 are properly considered Admitted Prior Art due to Applicant's failure to seasonably traverse Examiner's Office Notice taken in the Office Action mailed 21 November 2007. However, as noted above, Examiner has added reference McKinnon et al. which discloses the features of claims 36-46.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/  
Examiner, Art Unit 3623